

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

DePuy Mitek, Inc.
a Massachusetts Corporation

Plaintiff,

v.

Case No. 04-12457 PBS

Arthrex, Inc.,
a Delaware Corporation and

Pearsalls Ltd.
a Private Limited Company
of the United Kingdom

Defendants.

**Stipulation of Dismissal of Arthrex's & Pearsalls'
Patent Misuse Defenses and Counterclaim**

1. Arthrex agrees to a dismissal with prejudice under Fed. R. Civ. P. 41(c) of its patent misuse counterclaim as alleged in part of paragraph 7 of its Counterclaim filed in Response to DePuy Mitek's Amended Complaint.
2. Pearsalls agrees to a dismissal with prejudice under Fed. R. Civ. P. 41(c) of its patent misuse counterclaim as alleged in part of paragraph 7 of its Counterclaim.
3. Arthrex agrees to withdraw its affirmative defense of patent misuse as alleged in paragraph 22 of its Answer filed in Response to DePuy Mitek's Amended Complaint.
4. Pearsalls agrees to withdraw its affirmative defense of patent misuse as alleged in paragraph 23 of its Answer.

Date: February 8, 2006
/s/ Michelle Chassereau Jackson

Date: February 8, 2006
/s/ Christopher Weld, Jr.

DEPUY MITEK, INC.

ARTHREX, INC. and PEARSALLS LTD.

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SO ORDERED this __ day of _____

United States District Court Judge

CERTIFICATE OF SERVICE

I certify that the foregoing Stipulation of Dismissal of Arthrex's & Pearsalls' Patent Misuse Defenses and Counterclaim was served electronically on counsel for Arthrex and Pearsalls on February 8, 2006 as identified below:

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Dated: February 8, 2006

**/s/ Michelle Chassereau Jackson
Michelle Chassereau Jackson**

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